

U.S. Application No.: 10/009,966
RESPONSE TO RESTRICTION REQUIREMENT

Attorney Docket: 3524.012

REMARKS

Claims 45-88 are pending. Claims 58 and 59 are amended to depend from claim 55. Claim 69 is amended to depend from claim 67. Claim 81 is amended to depend from claim 76. Claim 82 is amended to depend from claim 79. Care has been taken to ensure that no new matter has been added to the text. Entry of the amendments is requested.

As a preliminary matter, the Examiner has notified the Applicant that the dependencies of some of the claims appear to be in error.

Applicant thanks the Examiner for drawing this matter to his attention, and asserts that the amendments to claims 58, 59, 69, 81 and 82 herein correct any deficiencies that the Examiner may have identified.

In response to the Restriction Requirement, in which the Examiner requires election of one group among Groups I to IX, Applicant provisionally elects Group I (claims 45-48, 51-54, 60-61, 63-69, 73 and 86) with traverse.

Traverse is on the grounds that all of the claims are linked by a common inventive concept and therefore satisfy the requirement of unity of invention.

According to the Examiner, the technical feature of "plant transformation with an isolated pollen- and tepetum-specific invertase promoter" is not special in view of WO 98/41643. Applicant respectfully disagrees.

Applicant respectfully draws the Examiner's attention to the International Preliminary Examination Report of PCT application

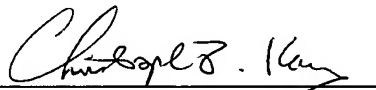
U.S. Application No.: 10/009,966
RESPONSE TO RESTRICTION REQUIREMENT

Attorney Docket: 3524.012

of which the present application is the U.S. national stage, in which only two groups of claims were indicated, which were divided by species, and not according to the Examiner's grouping, even though WO 98/41643 was listed in the International Search Report.

Applicant also specifically reserves the right to assert an earlier date of invention than the effective date of WO 98/41643, if WO 98/41643 is applied in a future claim rejection (37 C.F.R. § 1.131(a)) and if Applicant so chooses.

Respectfully submitted,



Christopher J. Kay
Registration No. 44,820

PENDORF & CUTLIFF
5111 Memorial Hwy
Tampa, Florida 33634-7356
(813) 886-6085

Date: October 13, 2004